S. HRG. 99-398

NOMINATIONS OF HAROLD L. CUSHENBERRY, JR., AND MICHAEL L. RANKIN

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF HAROLD L. CUSHENBERRY, JR., AND MICHAEL L. RANKIN TO BE ASSOCIATE JUDGES OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

DECEMBER 9, 1985

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NOMINATIONS OF HAROLD L. CUSHENBERRY, JR., AND MICHAEL L. RANKIN

MONDAY, DECEMBER 9, 1985

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The committee met at 3:35 p.m., in room SR-301, Russell Senate Office Building, Hon. Thad Cochran presiding.

Present: Senators Cochran and Levin.

OPENING STATEMENT OF SENATOR COCHRAN

Senator COCHRAN. The committee will please come to order.

Senator Mathias, who is unavoidably detained on the floor of the Senate, engaged in the debate of a matter that unexpectedly came up and lasted longer than anticipated this afternoon, has asked that I chair this hearing to review the nominations of judges who are recommended for the Superior Court of the District of Columbia by President Reagan.

I am particularly pleased to be able to preside at this hearing, because one of the lawyers recommended by the President to serve on the court is from my home State of Mississippi, Michael L. Rankin. I am confident that he is well qualified to serve as a judge and to discharge the duties of this office. I am familiar with his background and have a statement in support of his nomination which I will include in the record of the hearing.

The other nominee is Mr. Harold L. Cushenberry, Jr. From a discussion I have had with Mr. Joseph diGenova, U.S. attorney here, both of these nominees are well qualified and are outstanding nominees. We congratulate both of them and commend the President for his choices.

I would like to thank each nominee on behalf of the entire committee for the cooperation he has given members of the committee and the committee staff.

These nominations have been the subject of a careful review. In 1978, the committee adopted rule 8, which contains the requirements which must be met on all confirmations subject to committee evaluation. This rule requires that the committee conduct an inquiry into the nominee's experience, qualifications, integrity and suitability to serve in the position for which he has been nominated. The committee believes that this rule ensures a thorough, yet reasonable, review of a nominee's background and qualifications. I will briefly recount for the record the steps that the committee has taken on these nominations prior to today's hearing.

First, each nominee was asked for and supplied detailed information on his education, employment, and professional achievements, as well as a complete financial statement.

The financial statement and biographical information are available for inspection by the public in the committee office. In addition, the biographical information on the nominees will be placed in the record as a part of this hearing.

The committee proceeded to review the nominees' biographical and financial information, as well as reports submitted by the Office of Judicial Ethics. Following that, acting as chairman, Senator Mathias reviewed the FBI reports prepared on Mr. Cushenberry and Mr. Rankin which were also reviewed by the ranking minority member, Senator Eagleton.

Finally, the nominees were individually interviewed by designated committee staff members who then submitted reports to members of the committee containing all relevant information concerning each nominee's qualifications for the position to which he has been nominated.

[Senator Cochran's prepared statement follows:]

PREPARED STATEMENT OF SENATOR COCHRAN

Mr. Chairman, I am pleased to have this opportunity to introduce to this Committee Mr. Michael Lee Rankin, a native of Holly Springs, Mississippi, who has been nominated by the President to serve as an Associate Judge for the District of Columbia Superior Court.

This nominee is well qualified to serve in this important judicial position. He will bring to the Bench a wide range of litigation experience having served as a public defender, a government prosecutor, and a private practitioner.

Mr. Rankin earned a Juris Doctor degree from Howard University here in Washington, D.C. in 1970. He served with the U.S. Army in Southeast Asia, as a member of the Judge Advocate General Corps with the 101st Airborne Division, where for 2 years he prosecuted and defended military personnel who were charged with violations of the Uniform Code of Military Justice.

After his military service, he served as a public defender in the District of Columbia and represented indigent criminal defendants in juvenile, misdemeanor, and felony cases.

In 1976, he became an Assistant Federal Public Defender in the United States Virgin Islands. There, his experience was broadened to include representation of those charged with violations of immigration, banking, securities, embezzlement, and controlled substances laws. For his service, he was honored as the Outstanding Assistant Federal Public Defender in the District of the Virgin Islands in 1977.

He left public service in 1978 to join the Washington law firm, Wesley S. Williams and Associates. During this experience, he was actively engaged in probate, personal injury, domestic relations, and landlord/tenant law.

Mr. Rankin now serves as an Assistant United States Attorney for the District of Columbia. Since 1980, he has been involved in all phases of pretrial preparation and trial proceedings; he has led white collar crime investigations; and has briefed and argued appeals to the federal appellate courts.

He has taught trial practice for the American Trial Lawyers Association and the Criminal Practice Institute sponsored by the D.C. Young Lawyers, and he is responsible for the felony trial training program for Assistant U.S. Attorneys.

Mr. Chairman, it is apparent from his academic record and his experience that Mr. Rankin is intelligent and hard-working, and that he will be an excellent judge. I support his nomination and urge this Committee to recommend his confirmation by the Senate.

Senator COCHRAN. I would like to invite at this time Mr. Joseph diGenova, the U.S. attorney for the District of Columbia, to come forward and present whatever information he has to the committee on the subject of these nominations.

Mr. DIGENOVA. Thank you, Mr. Chairman.

Senator COCHRAN. Welcome, Mr. diGenova. It is good to be able to see you and congratulate you in this public forum on being such an outstanding U.S. attorney.

TESTIMONY OF JOSEPH diGENOVA, U.S. ATTORNEY FOR THE DISTRICT OF COLUMBIA

Mr. DIGENOVA. Thank you, Mr. Chairman. You do me an honor. I am delighted to be here today. I have the pleasant duty and responsibility of introducing to the committee two fine individuals to serve us in the law and the public whom President Reagan has nominated to be associate judges of the Superior Court of the District of Columbia.

May I just add in passing that the fact that this confirmation hearing is being held in the U.S. Senate is an important event. The U.S. Constitution provides, under article 1, that the Congress of the United States shall have plenary responsibility for legislating for the seat of government, which happens to be the District of Columbia. Subsumed under that responsibility is to advise and consent on judges nominated by the President of the United States for the Superior Court of the District of Columbia and for the Court of Appeals of the District of Columbia.

I would just like to submit for the record my personal view, as well as the view of the Department, that we trust and hope that that function will never devolve from the U.S. Congress, where it rightfully and duly belongs.

It is a true pleasure to introduce to this committee two colleagues of mine: Michael Rankin, who has with him today John Michael, his son, and Lee, his daughter; and Harold Cushenberry, who has with him his wife Betty.

Mike Rankin is an individual against whom I tried cases 13 years ago when I was a young assistant U.S. attorney and he was a defense attorney for the Public Defender Service for the District of Columbia.

Mike enjoyed the reputation as a fair, a fine and an honorable defense attorney, which, of course, is why we hired him as an assistant U.S. attorney. He was very effective, tended to win too many cases, and we felt that it would be better if he were working for the people on our side of the fence.

Mike has done a tremendous job in our office as a line attorney, and since I named him as my deputy chief of felony prosecutions in superior court, he has done a superb job of managing the ever increasing numbers and complexity of cases in the superior court.

He is an individual whose temperament, maturity, thoughtfulness, and wisdom will make him an ideal judge in a court system that needs more Mike Rankins and Harold Cushenberrys than it ever has had before.

It is of particular pleasure to introduce Harold Cushenberry to this committee, because Harold has served not only as a deputy chief of felony trials—as has Mike, when he was named to that position—but also, when I became U.S attorney, I named Harold to be my executive assistant. He has proven to be an excellent individual with regard to formulating and carrying out policies of the Department of Justice and has particularly worked on the ever in-

creasing problems of managing thousands and thousands of new and different cases in superior court. This is especially true in the area of drug prosecutions.

Harold's thoughtfulness and conscientiousness in serving the people of the District of Columbia has been an inspiration to me and has been of great service to the people of the District of Columbia.

I can think of no finer individuals than Mike Rankin and Harold Cushenberry to serve in the demanding capacity of superior court judgeships. I know of their personal qualities of intelligence, thoughtfulness, maturity, patience, and judicial temperament, and I am very pleased by the President's nomination of them. I know that they will serve the President and this community to the best of their abilities.

Those abilities are, I assure you, of the highest quality, and their characters are likewise of the highest quality.

I would be happy to answer any questions that the chairman or Senator Levin might have concerning either of these two individuals. But I did want to begin by commending them as highly as I can to this committee as superb candidates for these very important judgeships.

Senator COCHRAN. Thank you very much for your testimony, Mr. diGenova.

I have no questions. I think you covered everything in your statement relating to their abilities and qualifications to do the job, and your personal knowledge of their work, since you have supervised their work here in the last few years and have had personal experiences as a lawyer in the courtroom with Mr. Rankin and have known Mr. Cushenberry, as well.

We thank you for being here and for cooperating with our committee in the way that you have.

Senator Levin.

Senator LEVIN. No questions.

Thank you.

Senator COCHRAN. Thank you very much.

Mr. DIGENOVA. Thank you very much, Mr. Chairman.

Thank you sir.

Senator COCHRAN. I would like to ask the nominees to come forward and let us administer the oath. The Governmental Affairs Committee rules require that all witnesses at nomination hearings give their testimony under oath. If you will each raise your hand, do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. RANKIN. I do.

Mr. CUSHENBERRY. I do.

Senator COCHRAN. Thank you. You may be seated.

There are, of course, many steps in the confirmation proceedings, as you both very well know, probably more than there might be reason to expect to be required. As I said at the outset, we have looked at reports from the Office of Judicial Ethics; the FBI has reviewed your backgrounds, as you know. There is biographical information setting forth your education, employment, professional achievements, as well as financial statements, including IRS information.

You have been interviewed by staff members. You have been the subject of much scrutiny and evaluation, and you are here today at the final step in the process.

I commend you for making it this far through all of that. A lot of folks couldn't have made it that far, but you have, and I congratulate you on your nomination and wish you well, if you are confirmed by the Senate, in the discharge of your duties and your performance as judges on the superior court bench.

Let me ask you a few questions now that are required of all nominees.

Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging your responsibilities as a judge in the court to which you have been nominated?

TESTIMONY OF HAROLD L. CUSHENBERRY, JR., AND MICHAEL L. RANKIN, NOMINEES TO BE ASSOCIATE JUDGES OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Mr. RANKIN. No, Mr. Chairman, I do not.

Senator COCHRAN. Mr. Cushenberry?

Mr. CUSHENBERRY. No, I do not, Mr. Chairman.

Senator COCHRAN. If confirmed by the Senate, would it be your intention, insofar as you can see into the future now, to serve the full 15-year term of office?

Mr. RANKIN. That would be my intention, sir.

Mr. CUSHENBERRY. That is likewise my intention.

Senator COCHRAN. Have you ever been involved in civil litigation or administrative or legislative proceedings of any kind, either as a plaintiff, defendant, respondent, witness or party in interest, which was directly or indirectly related to the office to which you are nominated?

Mr. RANKIN. Mr. Chairman, I have been involved in much litigation over the years, none directly or indirectly related to this nomination.

Senator COCHRAN. OK.

Mr. CUSHENBERRY. My answer is the same: None, Senator.

Senator COCHRAN. Thank you.

Have you or any member of your immediate family ever been involved in any controversial litigation with tax authorities of the Federal Government, the District of Columbia or any State or local government?

Mr. RANKIN. I have not been involved in any tax litigation, sir.

Mr. CUSHENBERRY. I have not been involved, nor any members of my family, sir.

Senator COCHRAN. Is there anything of which you are aware in your background, professional or personal, which might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. RANKIN. No sir.

Mr. CUSHENBERRY. No, sir.

Senator COCHRAN. How would you propose to resolve any potential conflict of interest that might arise during your tenure on the bench?

Mr. RANKIN. Mr. Chairman, were there to be a conflict that I do not foresee at this time, I would—my first thought would be to recuse myself from that matter. I would seek the wise counsel of the chief judge of the superior court and would follow his counsel.

I would think that recusing myself would be sufficient.

Senator COCHRAN. Mr. Cushenberry?

Mr. CUSHENBERRY. Likewise, Senator, if there is a matter where there is a conflict of interest, I would likewise, recuse myself.

There is one matter I would specifically like to address. I am on the faculty of Howard University, the school of law. I teach criminal procedure. I intend to continue my association with that fine institution.

If there is a matter that comes before me and Howard University is involved in that matter, that law school in particular, I will, of course, recuse myself. If Howard University is involved, I likewise will hear from the parties, and I will take appropriate action, including recusal of myself, because I don't want to be part of any appearance of impropriety, whether that be some conflict, if not actual, possible. I would take those actions.

Senator COCHRAN. Thank you.

Do you have any published writings or speeches which could be of any embarrassment to you or to the court or to the President at any time in the future?

Mr. RANKIN. No, Mr. Chairman, I do not.

Mr. CUSHENBERRY. No, Mr. Chairman, I do not, either.

Senator COCHRAN. Would you please tell the committee, each in order, a bit about your background, your education, employment experience and highlight for the committee those points that especially qualify you, in your opinion, to sit on the Superior Court of the District of Columbia.

Mr. RANKIN. I was born and raised in a, if I might say, a fine southern family in the State of Mississippi. My mother and father were both educators, and my father rose to the level of the president of Mississippi Industrial College. I was raised on that campus, in Holly Springs, MS. I learned quite a bit in growing up there.

I attended Lincoln University in Jefferson City, MO; had the benefit of some very wise counsel from my Aunt Maxine Rankin who was secretary to President Dawson and the benefit of some fine instruction at that institution.

I attended Howard University School of Law at a particularly significant time, I believe, in Washington, the District of Columbia, from 1967 to 1970. I was truly blessed with some fine instruction from professors such as Patricia Roberts Harris, the late Patricia Harris, who was, at one time, the dean of the law school when I was there; the late Clyde Ferguson, who was the dean of the law school when I first began study there. I had the benefit of a fine education and instruction by some people who later became members of the Superior Court of the District of Columbia, like the Honorable Luke Moore, the Honorable James Washington, and several others.

I also was fortunate enough to work in the Department of Justice in the Civil Rights Division during a very, I believe, important time in our—in my lifetime, in the life of this country. In 1969 and 1970, I worked on some significant investigations at that time. As a

young person, I think I was entrusted with some rather significant responsibilities, and I learned a lot.

I had a very interesting military career following my work at the Department of Justice, I was the officer in charge of the 1st Army Telecommunications Center at Fort George G. Meade in Maryland for 10 months as a signal officer. Therefore, I received an assignment to the Republic of Southeast Asia, and because I was an attorney, I had passed the District of Columbia Bar, I was detailed to the Judge Advocate General's unit in the 101st Airborne Division, and I had an opportunity to try a significant number of criminal cases as trial counsel in special courts martial.

When I returned and left my military career, I had an opportunity to learn some administrative practice at the General Counsel's Office at the Office of Economic Opportunity.

But after a short time, I had the opportunity to do what I really wanted to do, and that is to become a trial attorney. And I was hired by the public defender service here in the District of Columbia. I worked in the District of Columbia Superior Court at its birth, because it had been the court of general sessions when I went to law school here in this city. Under the Court Reform Act of 1970, it became the District of Columbia Superior Court.

I worked in the trial courts for 3 years, and my last—my fourth year at the Public Defender Service, I worked as an appellate attorney in the District of Columbia Court of Appeals.

I then was fortunate in getting a Federal appointment in the public defender's office, the Federal Defender's Office in the District of the Virgin Islands that was run under the aegis of the third circuit, and I had an opportunity, as the Acting Federal Public Defender and as an Assistant Public Defender, to try many cases in the District Court of the Virgin Islands and to argue several appeals, one very successful appeal, I might say, before the third circuit.

I came back to Washington in the latter part of 1978 and tried my hand at a private practice and was able to really round out my experience as a private attorney, who had to deal first hand with clients and charge them and learn how to be a businessman of sorts.

I had an opportunity to negotiate contracts with businessmen, to try a divorce case in the D.C. Superior Court; to engage in civil litigation and to continue with what I might call my first love, criminal defense work and criminal litigation.

I was very honored, of course, in May 1980, with an appointment as an assistant U.S. attorney here in the District of Columbia. I have had a very enjoyable career in the U.S. Attorney's Office, and I believe that I have a fairly well rounded background to bring to this appointment, if I am successful in this endeavor.

Senator COCHRAN. I think you have outlined, Mr. Rankin, very well the fact that you have a unique career behind you and I hope a very challenging and very satisfying career in front of you.

But certainly, as public defender, as a Government prosecutor, and as a private practitioner, you bring to the court a wide range of practical experience as a lawyer, which I am sure will equip you to serve with distinction on the bench.

Mr. RANKIN. Thank you, sir.

Senator COCHRAN. Mr. Cushenberry?

Mr. CUSHENBERRY. Yes, Mr. Chairman. I, like Mr. Rankin, in answering my question, would like to tell you a little bit about who I am and how I came to sit here before you this afternoon. Because I think my qualifications to serve are really summed up in the total of my life experiences, also.

I was born in Henderson, NC, and like Mike, my parents were both educators. They both spent over 30 years in the public school system in North Carolina. My father, finally before retirement, became a principal in the school system.

I, likewise, attended public schools in Henderson, NC, and was fortunate enough to get a scholarship to a very fine preparatory school in Connecticut called the Taft School. I attended that school for 4 years, enjoying the enrichment of that experience, coming into contact with people with vastly different experiences than the ones I had known in Henderson.

I grew measurably by that experience.

I then was fortunate enough to receive a scholarship to attend Harvard University, and quite to the dismay of my father, who wanted me to go to the University of North Carolina on a Morehead Fellowship. I chose Harvard, instead. I enjoyed that experience immensely and learned a great deal from it.

Following my graduation from Harvard, I attended Georgetown University Law Center and stayed there for 3 years, although, in summary, I guess in terms of my legal career, I would say the highlight of that was receiving my J.D. in May 1975, and in truth, the greatest thing that happened to me there was the fact that I met my wife, who is also a lawyer, who is here this afternoon.

After graduating from law school in 1975, I took the opportunity to pursue an interest that I had in economics, and I went to the Federal Trade Commission, where I worked in their Bureau of Competition, during a time of a lot of activity at that particular Federal agency.

During the course of that particular—my tenure there for about 2 years or a year and half, I was involved in a wide range of investigative activities to try to determine whether or not there were certain anticompetitive practices that were cognizant under section 5 of the Federal Trade Commission Act. Also, we had jurisdiction under the Sherman Act, the Clayton Act, et cetera.

So I got a very rounded aspect of civil-type litigation, did discovery issues, interrogatories and matters like that. But like Mike, I thought my first love, and I wanted to try my hand at actually trying cases. As you know, in antitrust litigation, the trials, once they start, last a long time; it would take a long time to get off the ground.

So I came to the U.S. Attorney's Office to get that trial experience, and that has been my nurturing ground for the past 7 or 8 years.

In the U.S. Attorney's Office, I have had just wonderful career opportunities provided me. I tried countless number of cases. I have been through every section of the U.S. Attorney's Office, misdemeanor trials, grand jury, the appellate section. I have had an opportunity to try very important cases. I have spent about 2 years

in our most significant assignment in superior court. That is the felony I division.

I was also very lucky to be selected to be deputy chief of the felony trial division, where I had a chance to supervise other line attorneys. I was fortunate enough to be selected by former U.S. Attorney Stan Harris to be deputy director of our superior court operations, and of course, had the great privilege of serving the—almost the last year, with Joseph diGenova, who has given me an opportunity to display other talents in other areas outside the courtroom, and to him, I will be eternally grateful for those opportunities.

So in sum, I think I have devoted most of my experience to the local court system. I have been a part of that system; I know it well, and I think based on all of my experiences, I think I am capable of doing service to the people of this city and I think those are some of the things that would make me qualified to serve this community.

Senator COCHRAN. Thank you. I think clearly, that the people of the District of Columbia are lucky to have you agree to accept the responsibility of serving as a superior court judge. You are obviously well qualified because of your education and training and your experience to serve in this capacity and have the strong recommendation of Mr. diGenova and others who have indicated their support for your nomination.

Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Mr. Chairman, thank you and congratulations to both of our nominees. The only question that I had of each of them was one that we submitted in advance orally to them. It has to do with any prescreening questions which might have been asked of them. I keep hearing rumors floating around here of interviews with judicial nominees which, rumor has it, raise questions on specific subjects.

I asked each of these nominees a question similar to one that I understand is asked by members of the Judiciary Committee now, and here is the question:

> You have probably spoken with employees of the Executive Branch and others in connection with your nomination to the D.C. Superior Court. Please identify the persons with whom you have spoken about your nomination, the subjects that were discussed and the specific issues about which you were questioned. Please exclude from your answer discussions with family members or with friends in which the conversation about the nomination was merely casual.

Each of these nominees has submitted his answer to me. I would like to offer them for the record. They are both very reassuring, may I tell the chair, without having to take the time to read them. There was only one person, in essence, with whom they spoke, other than to people casually, who were family members or from whom they may have solicited support for their nomination. In both cases it was the same person, the deputy counsel to the President, and in both instances, the subject matter of the conversations was, in my book at least, totally appropriate.

So these answers are, I think, very reassuring. I appreciate these nominees giving these to me. I would like to make them a matter of the record.

I just ask each of the nominees, are these answers which you have given to my staff true to the best of your knowledge?

Mr. CUSHENBERRY. They are, Senator.

Mr. RANKIN. Yes, sir.

Senator LEVIN. Thank you.

Senator COCHRAN. Without objection, they will be made a part of the record.[1]

Senator LEVIN. And if I could just take 30 seconds, we take turns asking the most pleasant question of all around here, and that is whether they might introduce any members of their family that they have with them. We like to ask easy questions. We fight for who has to ask this question around here. If we have 30 seconds, I know we do have a vote on, I wonder if we could do that.

Senator COCHRAN. I hope we can have presented any members of your family who are here. Mr. Rankin, would you like to introduce your family members who are here?

Mr. RANKIN. Sir, indeed, I would. It would give me very great pleasure to, first of all, introduce my brother, Dr. Edward Anthony Rankin, who is an orthopedic surgeon here in Washington and who is, without a doubt, my strongest supporter in life in this and all of my endeavors. Dr. Rankin.

Senator COCHRAN. Welcome.

Mr. RANKIN. Also, just to prove that good things, indeed, often come in small packages, I brought two small packages who are also big supporters of mine, and they are my children, John Michael Rankin and Lee Elliott Rankin.

Senator COCHRAN. Welcome.

Mr. RANKIN. Thank you very much for allowing me to introduce them.

Senator COCHRAN. Mr. Cushenberry?

Mr. CUSHENBERRY. Thank you.

It also gives me great pleasure to introduce my wife, Elizabeth Noel Cushenberry, who is here. So my daughter will have some written record that I mentioned her, she is a very small package. I have two of them who I couldn't get here this afternoon. I have a daughter, Erica Cushenberry, who is 5, and a very small daughter who is now 4 months of age, Catherine Elizabeth Cushenberry.

One day I would like her to take a look at this transcript, and she will see her name, too. Thank you.

Senator COCHRAN. I hope we get to meet them, too, in due course.

Thank you both for responding to the committee and cooperating with us as you have. There are no other questions that I have of either of you. There may be other questions that some member of the committee may have which could be submitted in writing to you. If so, we hope you can respond to that in a timely fashion.

We want to thank all who were here today, particularly members of your family, and I want to say in your case, Mr. Rankin, I have been very strongly lobbied by Cyrana Longest of my staff who

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[1] See p. 21 and p. 32.

is, of course, a resident of Holly Springs, MS, who is familiar with your family and relatives and who has a very high opinion of all of you. She hasn't been bashful in telling me about that.

Mr. RANKIN. Thank you, Mr. Chairman.

Senator COCHRAN. She is here today, too, and I wanted to point that out. Of course, you know her, and she is a very important member of my staff.

[Biographical information and response to a written question submitted by Senator Levin follow:]

BIOGRAPHICAL AND FINANCIAL INFORMATION

A. BIOGRAPHICAL INFORMATION

1. Name: Harold Leroy Cushenberry, Jr.

2. Position to which nominated: Associate Judge of the Superior Court of the District of Columbia

3. Date of nomination: November 13, 1985

4. Address: (List current place of residence and office addresses.)
   Residence: 1601 Holly St., N.W., Washington, D.C. 20012
   Office: Room 2800-C, U.S. Courthouse, 3rd and Constitution Ave. N.W., Washington, D.C. 20001

5. Date and place of birth: April 4, 1950; Fayetteville, N.C.

6. Marital status: (Include maiden name of wife or husband's name.)
   Married. Elizabeth Ann Noel Cushenberry

7. Names and ages of children: Erica Noel Cushenberry, 5 yrs., DOB: 8/12/80; Catherine Elizabeth Cushenberry, 3 mo. DOB: 8/09/85

8. Education:
   The Taft School, Watertown, CN, 9/64 to 5/68; H.S. Diploma
   Harvard College, Cambridge, MA, 9/68 to 5/72; B.A. Degree
   Georgetown University Law Center, Washington, D.C., 8/72 to 5/75, J.D. Degree

9. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.
   3/77 - Present: Department of Justice, U.S. Attorney's Office for the District of Columbia, 3rd and Constitution Ave., N.W., Washington, D.C. 20001; prosecutor
   3/83-8/84: Deputy Chief, Felony Trial Division
   8/84-3/85: Deputy Director, Superior Court Operations
   3/85-Present: Executive Assistant United States Attorney
   1/83 - 6/84: Howard University Law School, 2900 Van Ness Street, Washington, D.C. 20008; adjunct professor in criminal procedure
   1/84 - 6/85: Howard University Law School, 2900 Van Ness Street, Washington, D.C. 20008; adjunct professor in criminal procedure
   9/75 - 12/76: Federal Trade Commission, 425 13th St., N.W. Washington, D.C.; attorney
   7/72 - 8/75: U.S. House of Representatives, Rep. L.H. Fountain (D-NC); 2188 Rayburn HOB, Washington, D.C.; research assistant
   9/64 - 5/68: Harvard University Work Study Program, Holyoke Center, Cambridge, MA; general office

10. Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
N/A

11. Business relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.
N/A

12. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations:
Vice President, Black Assistant United States Attorneys Association, 1981 - 1982

13. Political affiliations and activities:
(a) List all offices with a political party which you have held or any public office for which you have been a candidate.
N/A
(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.
N/A
(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 10 years.
N/A

14. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.
John Harvard Scholar (Harvard College)
John Motley Morehead Fellowship
(University of North Carolina, Chapel Hill)
Georgetown University Law School Scholarship
Federal Trade Commission Award for Meritorious Service
Special Achievement Award from the United States Attorney
Attorney General's Award for effective contributions toward the improvement in the operations of the Department of Justice

15. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.
N/A

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.
N/A

17. Selection:
(a) Do you know why you were chosen for this nomination by the President?

As you are aware, the District of Columbia Judicial Nomination Commission, pursuant to the provisions of the Act of December 24, 1973, P.L. 93-198, as amended, D.C. Code Ann. §§ 11 App. 433 and 434(1981) is charged with the responsibility of forwarding to the President of the United States a list of three nominees for each vacancy that occurs on the bench of the Superior Court of the District of Columbia. On September 12, 1985, my name and five others were forwarded to the White House for the President's consideration. After the completion of a full background field investigation by the Federal Bureau of investigation and a thorough and frank interview with a senior member of the White House staff, the President concluded that I was one of the two best qualified persons on the list submitted to him to serve this community as an Associate Judge of the Superior Court of the District of Columbia.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

To fully answer this question, I think it is important to tell the Members of the Senate a little about who I am an how I have utilized my legal training during the past ten years.

(17. (b), continued:)

I was born in Henderson, North Carolina, where my parents, who taught school for 30 years, still reside. I attended local schools in Henderson until I reached the 8th grade. After completing the 8th grade, I attended a private boarding school in Watertown, Connecticut. Upon graduation from the Taft School, I entered Harvard University in the fall of 1968 and graduated with honors in 1972, majoring in economics and political science. From 1972 until 1975, I continued my education at the Georgetown University Law Center, where I received a J.D. in May of 1975. While in law school, I worked on a part-time basis for former Congrerssman L.H. Fountain, (D-NC).

Following my graduation from law school, I began my legal career at the Federal Trade Commission where I worked in the Bureau of Competition investigating alleged anti-competitive trade practices cognizable under section 5 of the Federal Commission Act, the Sherman Antitrust Act and the Clayton Act.

In March of 1977, desiring to gain trial experience, I accepted a position as an Assistant United States Attorney for the District of Columbia. For the past 8 years, I have practiced intensively in both the Superior Court of the District of Columbia and the United States District Court for the District of Columbia. As a trial attorney, I have prosecuted over 100 jury trials in the local and Federal courts. I have likewise filed and argued over forty appellate briefs in both civil and criminal cases before the District of Columbia Court of Appeals and before the United States Court of Appeals for the District of Columbia Circuit.

As a supervisor in the United States Attorney's Office, I have served as Deputy Chief of our Superior Court Felony Trial Division, and Deputy Director of Superior Court Operations. On January 1, 1985, the United States Attorney, Joseph E. diGenova, selected me to fill one of the two top management positions in the United States Attorney's Office, that is, the position of Executive Assistant United States Attorney for the District of Columbia. The United States Attorney,

the Principal Assistant United States Attorney, and the Executive Assistant United States Attorney establish prosecutive policies for the 203 Assistants who represent the United States in criminal and civil litigation in our courts. While my duties are multi-faceted, I have assumed primary responsibility for evaluating criminal charging guidelines and developing management controls for our Superior Court Operations. I have also taken the lead role in working with the District of Columbia City Council with regard to proposed criminal legislation.

Additionally, I have taken a special interest in the cases processed by our Civil Division and have gained invaluable exposure to the myriad, complex civil litigation issues that are handled in our Federal courts.

My current responsibilities have therefore provided me with a wonderful opportunity to think carefully and critically about a broad spectrum of legal issues, criminal, civil, and appellate. It is my hope that these experiences will serve me well as an Associate Judge on the Superior Court. (For the past 3 years, I have also taught criminal procedure at the Howard University Law School. I will continue my association with Howard Law School as an adjunct professor during the 1986 spring semester.)

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?
   I will continue to teach criminal procedure two evenings per week beginning in January 1986.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.
   For the past three years, I have taught criminal procedure at the Howard University Law School. I plan to continue my association with the law if I am confirmed by the Senate.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?
   No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?
   No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?
   Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.
   I will continue my association with Howard University as an adjunct professor beginning on January 6, 1986; compensation: $4,500.00 per semester.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.
   N/A

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.
   N/A

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

   As part of my duties as the Executive Assistant United States Attorney, I have helped formulate policy and drafted comments with respect to proposed criminal legislation introduced in the United States Congress and in the District of Columbia City Council. I have prepared and submitted comments on the following matters:

   1. H.R. 2717 -- A bill to create an independent Jury system for the District of Columbia. Action -- drafted comments.

   2. H.R. 3370 -- Prosecutorial & Judicial Efficiency Authority Act of 1985. Action -- drafted comments.

3. Bill 6-311 & Bill 6-272 -- "The District of Columbia Parental Kidnapping Act" and the "Child Stealing Act of 1985," respectively. Action -- drafted comments.

4. Drafted legislation to amend Section 2301(3)(a) of Title 16 of the District of Columbia Code to allow the United States Attorney to prosecute as adults persons sixteen and seventeen years old for the commission of the offense of assault with intent to kill.

5. Consulted with City Council staff members on the "Increased Penalty for Prostitution Amendment Emergency Act of 1985."

6. Bill 6-47 -- A bill to create a Youth Corrections Act for the District of Columbia modeled after the repealed Federal Act. Action -- drafted comments.

7. On May 18, 1985, I prepared our office's response to several questions concerning drug trafficking in the metropolitan area propounded by staff members on the Subcommittee on Fiscal Affairs and Health, U.S. House of Representatives, Committee on the District of Columbia.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

If Howard University Law School is a party to any case which may be assigned to me, I will recuse myself. If the University is a party, I will disclose my relationship to the parties and will take appropriate action after giving the litigants an opportunity to be heard on the matter. If a litigant appears before me who is a close personal friend, I will disclose the relationship to the other party.

6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.
   No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.
   No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.
   No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?
   No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.
   N/A

SUPPLEMENT FOR D.C. JUDGE NOMINEES

F. QUESTIONS CONCERNING STATUTORY QUALIFICATIONS PURSUANT TO DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970, SEC. 11-1501(b) OF THE D.C. CODE AS AMENDED

1. Are you a citizen of the United States?
   Yes.

2. Are you a member of the bar of the District of Columbia?
   Yes.

3. Have you been a member of the District of Columbia bar for at least 5 years? (Give year in which you became a member.)
   Yes (1975)

4. If the answer to No. 3 is "No" ...
   N/A

5. Are you a bona fide resident of the District of Columbia?
   Yes.

6. Please state the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last 5 years.
   August 1981 to present: 1601 Holly St., N.W., Washington, D.C.
   November 1977 to August 1981: 1419 Whittier Place, N.W., Washington, D.C.

7. Have you maintained an actual place of abode in such area for at least 5 years?
   Yes.

8. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nomination Commission?
   No.

9. Have you been a member of either Commission within the last 12 months?
   No.

Question from Senator Carl LEVIN for Mr. Harold Cushenberry

* *

QUESTION:
You have probably spoken with employees of the Executive Branch and others in connection with your nomination to the D.C. Superior Court. Please identify the persons with whom you have spoken about your nomination, the subjects that were discussed, and the specific issues about which you were questioned. Please exclude from your answer discussions with family members or with friends in which the conversation about the nomination was merely casual.

* *

RESPONSE:

The only person who has interviewed me in connection with my nomination, other than the members of the Judicial Nominations Commission, was Richard A. Hauser, Deputy Counsel to the President.

During the course of a conversation that lasted approximately 40 minutes, we discussed:

(1) My prosecution in a "domestic terrorism" case, United States v. David Belfield;

(2) We discussed the drug problem and the disastrous impact it was having on the local community;

(3) We discussed what approaches I would take to help reduce the civil backlog in Superior Court;

(4) We discussed a "signature crime" I prosecuted where two young women were raped by a person who employed a unique modus operandi;

(5) We discussed the fact that most of my experience has been criminal and he asked me whether I would feel equally comfortable handling civil litigation.

I was not asked any questions about how I would rule on specific issues.

I initiated dialogue with the following members of the Executive Branch:

JOSEPH E. DIGENOVA — 633-1706
United States Attorney
for the District of Columbia

JAY B. STEPHENS — 633-2105
Associate Deputy Attorney General
Office of the Deputy Attorney General

ROBERT W. OGREN — 724-7038
Chief, Fraud Section
Criminal Division

I asked each of these men to support my nomination by either writing a letter on by behalf or telephoning their support to appropriate officials at the White House.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

Michael Lee Rankin

2. Position to which nominated:

Associate Judge, D.C. Superior Court

3. Date of nomination:

November 13, 1985

4. Address: (List current place of residence and office addresses.)

1137 Fairmont Street N.W., Washington D.C. 20009
500 Indiana Avenue N.W., Washington D.C. 20001

5. Date and place of birth:

August 7, 1946; Memphis, Tennessee

6. Marital status: (Include maiden name of wife or husband's name.)

Legally separated; Vivian Alma Thomas

7. Names and ages of children:

John Michael Rankin 13 years
Lee Elliott Rankin 11 years

8. Education: List secondary and higher education institutions, dates attended, degree received and date degree granted.

Sims High School, Holly Springs, Mississippi, diploma 1963.
Lincoln University, Jefferson City, Missouri, September 1963 - July 1967, Bachelor of Arts 1967.
Howard University School of Law, Washington D.C., September 1967 - May 1970, Juris doctor 1970.

9. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.

Federal Commincations Commission, Law Clerk, Office of the Gereral Counsel, 1919 M Street N.W., June 1968 - February 1969.
U.S. Department of Justice, Civil Rights Division, Criminal Section; Law Clerk, February 1969 - May 1970.

May 1970 - October 1970 - U.S. Department of Justice, Civil Rights Division, Criminal Section, Staff Attorney.

October 1970 - February 1972 - Active duty in U.S. Army. While on active duty in Southeast Asia I was assigned to the Judge Advocate General's Corps, 101st Airborne Division, Headquarters Company. I prosecuted and defended alleged violations of the Uniform Code of Military Justice in Special and General Courts Martial.

March 1972 - June 1972 - Office of Economic Opportunity; Attorney Advisor in the Office of the General Counsel.

June 1972 - May 1976 - Public Defender Service for the District of Columbia, Staff Attorney. Primary duties: Represented indigent criminal defendants in juvenile, misdemeanor and felony cases in the U.S. District Court for the District of Columbia and the District of Columbia Superior court. Briefed and argued appeals in U.S. Court of Appeals and District of Columbia Court of Appeals.

May 1976 - August 1978 - Office of the Federal Public Defender, District of Virgin Islands. P.O. Box 720, USVI. As Assistant Federal Public Defender I represented indigent criminal defendants in the U.S. District Courts on St. Thomas and St. Croix in a broad variety of cases including alleged violations of the immigration, fraud, banking and securities, embezzlement and controlled substances sections of the United States Code and the Criminal sections of the Virgin Islands Code. In August 1976 I was designated Acting Federal Public Defender by the Third Judicial Circuit. My duties as administrative head of the office included supervision of three attorneys, two criminal investigators, and clerical support personnel; preparation of budget for FY 1977; employee performance evaluations, and service on numerous committees. I also carried a full case load.

September 1978 - May 1980 - Wesley S. Williams Sr. and Associates (Private General Practice) 720 Fifth Street N.W., Washington, D.C. 20001. My general practice in this small (two lawyers) firm included probate, personal injury, domestic relations, landlord/tenant, administrative law, criminal law, and, contract procurement and negotiation.

May 1980 - Present - Office of the United States Attorney for the District of Columbia, Assistant United States Attorney. As an Assistant United States Attorney I have prosecuted alleged violations of the United States Code and the District of Columbia Code in the U.S. District Court for the District

of Columbia and in the Superior Court of the District of Columbia. I have been assigned to the Misdemeanor Trial Section, the District Court Grand Jury Section, the Appellate Section, the Chronic Offender Unit, and the Felony Trial Section. Among my special assignments have been an assignment as Misdemeanor Special Litigation Chief, and, an assignment as Special Assistant to the U.S. Attorney in the District of the Virgin Islands (September 1981 - November 1981). Following ten months as a Felony I prosecutor I was appointed Deputy Chief of the Felony Trial Division in December 1984.

10. Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.

None

11. Business relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

None

12. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.

Unified Bar of the District of Columbia. Co-chairman, Steering Committee on Criminal Law and Individual Rights - 1976.

Washington Bar Association
Assistant United States Attorneys Association
Omega Psi Phi (social) Fraternity, Inc.,
Dean of Pledges, 1966 - 67, Eta Sigma Chapter, Lincoln University, Jefferson City, MO.

13. Political affiliations activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

(b) List all membership and offices held in and services rendered to all political parties or election committees during the last 10 years.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 10 years.

(a) None
(b) None
(c) None (See Attachment 4A)

14. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

(a) Commendation from Chief of Police Burtell Jefferson, 1980.

(b) Award, Outstanding Assistant Federal Public Defender in the District of the Virgin Islands, 1977.

15. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

In the spring of 1974 I contributed an article to the Criminal Practice Insitute Manual. The title of the article was, The Problem of the Missing Defendant, a summary of the case law and court rules affecting a defendant who voluntarily absents himself after Court proceedings have begun. The article was reprinted in the CPI manual in 1975 and 1976.

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

None

17. Selection:
(a) Do you know why you were chosen for this nomination by the President?

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

(a) Best qualified candidate.

(b) I have been an active trial lawyer since the autumn of 1971. My experience encompasses a broad range of legal practice including criminal and civil trials, administrative hearings, and service on numerous law reform committees. In addition I

Supplemental Answer to Question 13.(c)

Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 10 years.

Answer: My records do not show a contribution of $50 or more to any single individual, organization, party, PAC, or other similar entity over the past ten years. I do believe that I made a contribution to the Jackson campaign in 1984 in the form of tickets purchased to a fund raiser which was held at the D.C. Convention Center. I do not recall the exact amount of the ticket, but I believe they were $25.

I also believe that my wife and I made a similar contribution to the Friends of Wilson Goode when he ran for office in Philadelphia, Pa.

have worked as a Government lawyer and in private practice; I have taught trial practice for the American Trial Lawyers Association, Advanced Course; for the Criminal Practice Insitute, sponsored by the Young 'Lawyers' Section of the D.C; Bar, and, in my present employment, in addition to my other supervisory duties, I am responsible for the felony trial training program for Assistant U.S. Attorneys.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Yes, except that I would maintain my membership in the Assistant U.S. Attorney's Association.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? Is so, explain.

No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings wiht business associates, clients or customers.

None

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

I have been a federal prosecutor since June 1980. In this capacity I have prosecuted alleged criminal violations of the United States Code, the District of Columbia Code, and the Virgin Islands Code in United States District Courts and in the Superior Court of the District of Columbia.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

I do not foresee any potential conflict of interests. Should any unforeseen conflicts arise I would recuse myself from such matters.

6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law regulation, or ordinance, other than a minor traffic offense? if so, provide details.

No

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

I am presently involved in a divorce proceeding (CA#D04329-84) filed in the Superior Court of the District of Columbia. The grounds are voluntary separation. There are no child custody issues.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None

SUPPLEMENT FOR D.C. JUDGE NOMINEES

F. QUESTIONS CONCERNING STATUTORY QUALIFICATIONS PURSUANT TO DISTRICT OF COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970, SEC. 11-1501(b) OF THE D.C. CODE AS AMENDED

1. Are you a citizen of the United States.

Yes

2. Are you a member of the bar of the District of Columbia?

Yes

3. Have you been a member of the District of Columbia bar for at least 5 years? (Give year in which you became a member.)

Yes. December 8, 1970

4. If the answer to No. 3 is "No" --

(a) Are you a professor of law in a law school in the District of Columbia?

(b) Are you an attorney employed in the District of Columbia by the United States or the District of Columbia?

(c) Have you been eligible for membership in the bar of the District of Columbia for at least 5 years?

(d) Upon what grounds is that eligibility based?

N/A

5. Are you a bona fide resident of the District of Columbia?

Yes

6. Please state the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last 5 years.

1137 Fairmont Street N.W. (Since 6/73)

7. Have you maintained an actual place of abode in such area for at least 5 years?

Yes

8. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nomination Commission?

No

9. Have you been a member of either Commission within the last 12 months?

No

Questions from Sen. Levin for Mr. Michael Rankin

Question: You have probably spoken with employees of the Executive Branch and others in connection with your nomination to the D.C. Superior Court. Please identify the persons with whom you have spoken about your nomination, the subjects that were discussed and the specific issues about which you were questioned. Please exclude from your answer discussion with family members or with friends in which the conversation about the nomination was merely casual.

Answer: On June 19, 1985 I had an interview with Richard Hauser, Deputy Counsel to the President, in his office at the White House. The interview lasted approximately forty minutes. I was asked about my judicial philosophy, my perspective on sentencing, and my ideas, if any, on ways of reducing the backlog of civil cases.

I responded that I considered a trial judge's role to be that of a mediator, an arbiter, and someone who provides guidance to the finders of fact. A judge must be firm and not afraid to use authority, yet, he should be of even temper and fair-minded. He must be learned in the law, and keep up with recent developments; he should listen to the evidence and consider the arguments of counsel and issue rulings and orders without unnecessary delay. In sum, he should conduct proceedings before the Court in a way that will bring respect to the Court.

Regarding my perspective on criminal sentencing I answered that I thought sentences should be fair and take into consideration the impact of the crime on the victim, the defendant's background, and the community's concern for public safety and welfare. If incarceration is the appropriate sentence a judge must not hesitate to use it. If, on the other hand, probation, community service, or some other sentencing alternative will adequately address the seriousness of the crime, the court must have the flexibility to consider and use the alternatives to incarceration.

On the topic of ways of alleviating the court's civil backlog, I talked generally about the history of the office of the Civil Assignment Commissioner. I suggested that there will always be lawyers who slow down case movement through judge shopping techniques; and, I concluded that judges in civil assignments must be as committed to moving their calendars as are judges in criminal assignments.

The remainder of our conversation centered around my background and qualifications for the position.

All other persons with whom I have spoken about my nomination are friends and family. No one has asked me questions concerning matters which I would consider controversial or purely political in nature.

Senator COCHRAN. I know of no other matters to come before the committee at this time. And if there are no other matters, the committee will stand in recess.

[Whereupon, at 4:06 p.m., the committee was recessed, subject to the call of the Chair.]

O